

March 27, 2007

To: Members of the Senate and Assembly Utilities Committee
From: Scott T. VanderSanden, President – AT&T Wisconsin

Re: Competitive Video Act (SB 107 / AB 207)

Good Morning. My name is Scott VanderSanden, president of AT&T Wisconsin. Thank you for allowing me the opportunity to speak today.

I'm here today to urge your support of Assembly Bill 207, and Senate Bill 107, The Competitive Video Act. The authors of these bills have done a great job of gathering input from a number of parties and have drafted a bill that makes good Video Choice policy for all of Wisconsin. With the support of the 43 bi-partisan co-sponsors this bill is ready to become law.

AT&T has a long history in Wisconsin, serving Wisconsin residents and businesses for more than 120 years. We employ more than 5,300 workers in Wisconsin, including more than 3,300 union workers, mainly represented by the Communications Workers of America.

Over the years, consumers have become more sophisticated and AT&T has responded to better meet their needs. In addition to traditional telephone service, we offer high-speed Internet, wireless voice and data services – and now, our new U-verse television service, which we provide over our phone lines.

To bring the next wave of technologies to consumers, we are in the process of investing \$4.6 billion in our network across the country. This investment makes it possible to offer voice over Internet Protocol service in the future, faster Internet speeds and our U-verse video product.

You might ask why is AT&T so concerned with video? Simply put, studies show that consumers want an alternative to cable and we want to provide that alternative.

Nationally, cable prices rose on average 93% over the last 10 years, according to the FCC. In Madison, consumers are paying 61% more per month than in 1999. In Milwaukee, prices jumped 62% since 1999.

Not surprisingly, 77% of Wisconsin voters say there isn't enough competition for cable service, and 75% say cable prices are too high.

The Video Competition Act will help improve prices and bring new services to consumers.

The best way to encourage alternatives and bring these types of potential consumer benefits to our residents quickly is to pass the Video Competition Act.

Wisconsin is home to 1,850 cities, villages and towns. AT&T offers service in 438 of these municipalities. If providers were required to negotiate franchise agreements in each community, consumers would wait years to get video.

The Video Competition Act jumpstarts competition and consumer benefits by requiring a provider to receive just one franchise, at the state level.

Even with this greatly streamlined process, the bill would still require video operators to pay local governments a franchise fee at the same rate as cable companies now pay.

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And companies would still be legally bound to carry public channels.

Under this bill, local governments get major benefits of revenue sharing, and consumers see benefits of competition much sooner.

Such statewide video legislation is nothing new. Ten states have already approved such bills, and many more are considering them.

Since I last spoke with you Missouri has joined the list of states where a similar bill has passed. Illinois, Ohio, Florida, and Georgia have bills pending at this moment.

These legislatures passed video bills by large bi-partisan margins, and they've been signed by Democratic and Republican governors alike.

AT&T has supported such bills in the states that we operate, and we strongly support AB-207/SB 107.

Consumers today benefit from competitive markets for other services such as wireless, wireline voice service and broadband. In the video market satellite providers and the internet are capturing an ever increasing share. None of these services are regulated by local governments. Consumers have an enormous number of new providers, features and services to choose from – and falling prices.

Do you think there'd be as much competition or as many alternatives today if local governments regulated each of these services?

The bottom line is that consumers deserve a video alternative now. Consumers will greatly benefit from an alternative – with competitive prices, better service, new products.

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Let more entrants into the marketplace quickly, so consumers can choose whether they want a cable company, a phone company or another provider to be their source for video entertainment. They deserve to have the choice.

The Act brings the benefit of competition to consumers now and continues to provide cities with key benefits. I would like to encourage your committees and Legislature to approve this bill now. Let's put Wisconsin in the forefront of consumer choice. Delay only harms consumers.

Thank you again for inviting AT&T to discuss this issue. I'd be happy to answer any questions that you may have.



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection

Rod Nilsestuen, Secretary

March 27, 2007

Senator Jeffrey Plale
Room 313 South
State Capitol
Madison, WI 53707-7882

Representative Phil Montgomery
Room 129 West
State Capitol
Madison, WI 53708

Re: AB 207 and SB 107

Dear Representative Montgomery and Senator Plale:

Thank you for the opportunity to testify for information on SB 107 and AB 207.

We applaud the basic tenet of this legislation which is to provide increased competition in the video services industry. For too long consumers have had little or no choice in determining who could provide what has become a popular service for consumers. We believe that permitting increased competition will provide more choices for consumers and, hopefully, lower prices.

However, we have significant concerns about the total lack of consumer protections in the legislation, including the repeal of s. 100.209, Stats., entitled "Cable television subscriber rights." This statute, which has been in existence in one form or another for twenty six (26) years, provides what we consider basic and fundamental protections for consumers. These include:

- The right to have service repaired within seventy two (72) hours of notification if the service problem is not the result of a natural disaster;
- The right to a credit against a consumer's bill if there is an interruption that is longer than four (4) hours in a day;
- The right to receive thirty (30) days advance notice of any increase in rates or deletion of any current programming service;
- The right to a grace period of forty five (45) days for disconnection due to an unpaid bill and ten (10) days advance notice of disconnection.

Over the past two (2) plus decades, this statute has served consumers well. Each year we receive hundreds of complaints from consumers about cable television services. In addition, we receive well over a thousand complaints about issues involving telecommunications providers, a group that is advocating for passage of this legislation. Indeed, until the enactment of Wisconsin's no-call law, telecommunications complaints were perennially our number one complaint. Since no-call, telecommunications has perennially been our number two (2) complaint.

We have heard that some proponents of this legislation contend that increased competition will lead to consumer protection because if consumers are unhappy with the service provided by one entity, the consumer can simply switch to a competitor. This argument is invalid for several reasons.

First, not all Wisconsin residents will have multiple providers from which they can choose. There is no requirement in the legislation that requires all video service providers to serve all persons in the state and in many areas, particularly smaller municipalities and rural areas, only one provider will continue to exist. For consumers in these areas, repeal of s. 100.209, Stats., will mean that no matter how poor they think their current service is, there is absolutely nothing they can do about it.

Second, switching from one provider to another is not always easy. Like the cell phone industry, video service providers can have subscription agreements which run for several years and which impose a significant fee for early termination of that agreement. In reality then, even where competition does exist, some consumers will not be financially able to make a switch for several years.

We have also heard arguments by proponents of this legislation that federal law provides ample consumer protection. Again, we disagree. Current federal law does impose some requirements on cable operators, but these are limited to issues like maintaining an office to take consumer calls and bill payments, installing cable television within seven (7) business days of an order for service, and providing refunds or credits in a certain number of days. These provisions in no way address the fundamental consumer protection issues that s. 100.209, Stats., covers.

In addition, some proponents argue that s. 100.209, Stats., can be repealed because DATCP can promulgate rules for consumer protection. While this legislation does make reference to rules promulgated by DATCP, it gives no authority to DATCP to promulgate any rules. And, there is currently no law that permits DATCP to promulgate rules concerning the topics addressed by the statute or any customer service or quality of service standards.

Because of our concerns, we strongly believe that s. 100.209 should not be repealed. However, we do think it needs to be amended in two regards. First, we think that the

terms "video service" and "video service provider" need to be added. It would be unfair to cable operators if only they, and not their competition, were bound by the requirements of that statute. In addition, we think the provision in the statute that permits municipalities to enact ordinances that give greater protection to consumers than allowed by the statute should be deleted. If the state is going to be the franchise authority, municipalities should not be entitled to enact separate ordinances.

Another issue of major concern to us is the legislation's provisions regarding discrimination and access to service. In our opinion, those provisions do little to protect against discrimination or promote access. With respect to discrimination, the legislation provides that by the end of the third year of a franchise, only 25% of those with access to services must be low income households; that by the end of year five (5), that percentage increases to only 30%. Put another way, this legislation means that starting at the end of five (5) years, video service providers may exclude 70% of the low income households in their service area from access to service.

In addition, current telecommunications providers that obtain video franchises under this legislation and have more than 500,000 basic local exchange access lines in the state, must provide access to video services to only 25% of households within their basic local exchange area and at the end of six (6) years, to only 30% of such households. Again, put another way, this legislation means that starting at the end of six (6) years, these providers may exclude 70% of the households in their basic local exchange area from access to video service.

Rather than these provisions, we encourage the committees to consider alternative language which is adapted from North Carolina's state-issued video service franchise law. That language, as adapted is:

- (a) A video service provider may not deny access to the service to any group of potential residential subscribers within the video franchise area because of the race or income of the residents. A violation of this subsection shall be considered an unfair trade practice under s. 100.20. In determining whether a cable service provider has violated this subsection with respect to a group of potential residential subscribers in a video franchise area, the following factors must be considered:
 - 1. The length of time since the provider was granted a franchise for this area. If less than a year has elapsed since the franchise for this area was granted, it is conclusively presumed that a violation has not occurred. This subsection does not apply to providers that currently provide video or cable television services.
 - 2. The cost of providing service to the affected group due to distance from facilities, density or other factors.
 - 3. Technological impediments to providing service to the affected group.
 - 4. Inability to obtain access to property required to provide service to the affected group.

We believe that this language provides greater protection to Wisconsin residents while not imposing an onerous burden on video/cable television providers.

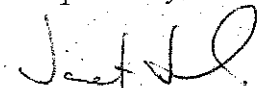
Finally, we have serious concerns with the legislation's process of granting franchises. The legislation does not grant any discretion to DFI to grant or deny a franchise. Rather, the legislation provides that if an application for a franchise is complete, DFI must approve it. In addition, while the legislation provides that an applicant must furnish an affidavit attesting to financial, legal, and technical capability to provide video services, DFI can neither promulgate rules defining "financial, legal, and technical" capability, nor question whether the applicant's attestation is accurate. Similarly, the legislation provides that once a franchise is granted it can only be terminated at the request of the franchisee and that a franchisee can transfer the franchise to anyone the franchisee chooses.

We believe that DFI should be able to exercise some discretion both in promulgating rules and granting a franchise. We also believe that the law should contain reasonable standards under which a franchise can be revoked. Without this authority, DFI is nothing more than a processor of applications, all of which must be granted if the application is complete. Moreover, without this authority, consumers are ill-served because anyone, whether objectively qualified or not, must be granted a franchise in perpetuity.

We are aware that DFI is addressing certain items of concern with the legislation in its written testimony. We have consulted with DFI on these concerns and are in complete accord with them.

Thank you again for this opportunity to provide testimony on this legislation.

Respectfully,



Janet Jenkins
Administrator

Division of Trade & Consumer Protection



State of Wisconsin
Department of Financial Institutions

Jim Doyle, Governor

Lorrie Keating Heinemann, Secretary

Testimony of
Christopher Green, General Counsel
Department of Financial Institutions
Joint Hearing of Assembly Committee on Energy and Utilities &
Senate Committee on Commerce Utilities and Rail
Assembly Bill 207 and Senate Bill 107
March 27, 2007

Chairperson Montgomery and Chairperson Plale, thank you for giving me the opportunity to testify on behalf of the Department of Financial Institutions (DFI) for information only on Assembly Bill 207 (AB 207) and Senate Bill 107 (SB 107), which relate to the creation of statewide video service franchises.

DFI believes competition in this industry is important. We support the intent of the legislation to provide consumers with a choice in cable television service. In our review of the bills, however, we have come across some concerns that directly relate to consumer protection.

It is my understanding the Department of Agriculture, Trade and Consumer Protection (DATCP) agrees with DFI that existing consumer protections should not be repealed. Competition alone will not guarantee consumers will be protected.

In addition, DFI and DATCP should be allowed to promulgate rules to implement the statute. There are a number of undefined terms and processes in the bill that necessitate rulemaking to ensure the intent of the legislation is carried out and consumers are protected.

DFI has specific suggestions on how to improve the franchise review process to ensure consumers are receiving service from businesses that are qualified to provide cable services. These suggestions are centered on the need for a true review of the franchise applications that are sent to DFI.

AB 207 and SB 107 require DFI to issue a video service franchise within 10 days of receipt of an application. There is nothing in the legislation that allow DFI to deny the application, even if the applicant is not legally, financially or technically qualified to provide video service or if the provider has a record of consistently violating consumer protection laws. DFI's only determination under the bills is whether or not the application is complete and the bills do not define, nor do they allow the department to define through rulemaking, what makes an application complete.

DFI suggests amending the bills so that a determination of completeness must be made by the department within 15 days. Once an application is complete, DFI proposes creating an additional 15 day requirement for the department to determine if the business is legally, financially and technically qualified to provide video service. Rulemaking would be required, as we have for other industries with similar reviews, to define these terms and create an understandable process for the business applying for the franchise, consumers and DFI.

In addition, there is no mechanism under the legislation to revoke an existing franchise or prevent the transfer of an existing video franchise if the video provider or transferee has a track record of poor service or non-payment of fees or other indications that the video provider has violated the law.

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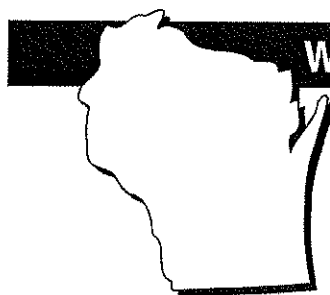
Internet: www.wdfi.org

AB 207 and SB 107 effectively prevent the review and dispute of the video service provider's financial records and payment of fees. One provision in the legislation states that to dispute a fee, it must be disputed within three years of the violation. However, another provision states that the video service provider's financial records may be reviewed only once every three years. The additional audit and dispute resolution process called for in the bills prevent an action to be brought for non-payment or under payment of fees within the time constraints specified in the legislation. DFI suggests allowing for the review of video service provider's financial records once every two years.

In addition, DFI proposes sending a portion of the fees directly to the state to pay for the review of franchise applications and consumer complaint processing. As currently written, the legislation does not provide for any fees or other revenue to pay for the state's costs associated with the bill.

DFI also shares DATCP's concerns regarding the provisions in the legislation that attempt to prevent discrimination in the provision of video services. We believe these provisions must be strengthened to ensure "redlining" does not occur.

In summary, DFI supports the intent of the legislation, but believes minor changes can be made that will significantly strengthen consumer protections. We look forward to working with you on this important piece of legislation. Thank you.



WISCONSIN ALLIANCE OF CITIES



To: Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

From: Dan Thompson, Executive Director, League of Wisconsin Municipalities
Ed Huck, Executive Director, Wisconsin Alliance of Cities
Mary Cardona, Executive Director, Wisconsin Association of PEG Channels

Date: March 26, 2007

Re: Recommended Changes to AB 207/SB 107, Statewide Video Franchising Bill

Municipalities have significant concerns about many elements of AB 207/SB 107. Municipalities fare much worse under this bill than any similar legislation passed in other states. We urge you to adopt the following eleven reasonable amendments designed to keep municipalities whole and to protect consumers. (Note: Recommended language for some provisions is attached.)

1) Don't Abrogate Existing Franchise Agreements

- Change: Require current cable operators to honor existing contracts with municipalities until competition exists within the community.
- Reason: AB 207/SB 107 gives incumbent cable operators the option to terminate their franchise agreements. These agreements were negotiated in good faith by local governments. It would be unfair, unprecedented and possibly unconstitutional for the state to allow the abrogation of contractual obligations. Continued oversight by the local franchising authority is necessary until the incumbent cable operator is subject to competition in the franchise area.
- Precedent: Cable and phone companies agreed to a competition trigger in California, Virginia and in proposed federal legislation. Texas legislation abrogated no contracts.

2) Expand Definition of "Gross Receipts" for Purposes of Calculating Franchise Fee

- Change: Include advertising and other non-subscriber revenues in the definition of gross receipts.
- Reason: Excluding non-subscriber revenues from the 5% fee will reduce the amount of franchise fee payments incumbent cable operators currently pay to local governments by 20-25%, a short fall that will not be made up by competition. As the majority of franchise fees are paid into the general fund, AB 207/SB 107 will force local governments to raise property taxes – or reduce services - to make up for the loss in franchise fee payments.
- Precedent: Texas, California, existing WI cable franchises, Milwaukee-AT&T Agreement

3) Clarify Rights-of-Way Authority and Other Police Powers

- Change: Make clear that municipal authority over rights-of-way is preserved, including the right to collect street opening permit fees and require performance bonds and other management tools.
- Reason: AB 207/SB 107 would eliminate street opening permit fees and may prevent municipalities from requiring video providers to post bonds before excavating in the right-of-way. The proposed changes are necessary to protect local rights-of-way.
- Precedent: California, existing WI cable franchises, Milwaukee-AT&T Agreement

4) Maintain PEG Financial Support Requirements

- Change: Require video providers to either pay municipalities 1% of gross receipts or match PEG financial commitments under the incumbent's franchise agreement, whichever is greater.
- Reason: AB 207/SB 107 prohibits municipalities from requiring financial or other support from video service providers for PEG Channels. PEG stations provide valuable services to their communities by televising council meetings, candidate forums, community events, and programs promoting the causes of non-profit organizations. During emergencies, police and fire agencies depend on PEG stations to disseminate information quickly. Public safety personnel also use PEG stations to offer public safety programming. PEG is a valuable asset to our communities and should be adequately funded by video service providers in order to avoid property tax increases or the loss of televised public programming.
- Precedent: California, Texas, Milwaukee-AT&T Agreement

5) Maintain Local Control over PEG Channel Capacity and Programming

- Change: Eliminate the provision that allows providers to take back PEG channels that are not "substantially utilized."
- Reason: AB 207/SB 107 proposes to eliminate any PEG channel that does not televise 10 hours of unrepeat local programming each day. This standard would result in the elimination of nearly every PEG channel in Wisconsin. PEG channels serve an important public purpose. Community need should be the standard for the number of PEG channels provided. Imposing arbitrary channel use requirements reduces the flexibility of a PEG station to meet and balance community needs within the station's limited budget and wastes money.
- Precedent: Milwaukee-AT&T Agreement

6) Continue Carriage of PEG Programming from Source to Headend or Video Hub

- Change: Require the video service provider to carry PEG programming to the headend or the video hub at its expense and to interconnect with its competitor's network where necessary to make PEG programming available to all subscribers via a quality signal.
- Reason: Forcing municipalities to pay for the equipment necessary to ensure that all subscribers receive local PEG programming will put an insurmountable financial burden on most all PEG stations. Half of all PEG stations may be lost; the rest will have to cut back on program production unless local property taxes are increased to cover the short fall. Interconnection of video networks should be required where necessary for the signal quality of PEG channels to be the same as for the commercial broadcast channels.
- Precedent: California, existing WI cable franchises

7) Provide Free Connections to Schools and Government Buildings

- Change: Require video service providers to continue the long-standing practice of providing free video service connections and basic service to local schools and government buildings.
- Reason: Schools and local governments have long depended on the free cable hook ups and free cable service provided by the incumbent cable operator. Local governments, and especially local schools, do not have the financial resources to pay for these services they have traditionally received for free.
- Precedent: New Jersey, Virginia, existing WI cable franchises, Milwaukee-AT&T Agreement

8) Strengthen Consumer Protection Standards

- Change: Require video providers to comply with all applicable state, federal and local customer service standards and customer privacy laws. Permit local governments to maintain and enforce existing local standards pertaining to incumbent cable operators until the incumbent is subject to competition within the franchise area. Authorize the Department of Agriculture, Trade and Consumer Protection to establish enforcement mechanisms to enforce applicable state and federal consumer protection and customer privacy laws and regulations.
- Reason: Provide greater protection to consumers.
- Precedent: California, Texas, existing WI cable franchises, Milwaukee-AT&T Agreement

9) Define Term of Franchise and Franchise Renewal Process

- Change: Establish a once every 10-year review and renewal process so that a franchise may be terminated where the video service provider has willfully and repeatedly violated federal, state or local law or regulations.
- Reason: Ensure that renewal standards are met and make clear that renewal is not guaranteed if the provider has not complied. An agreement in perpetuity provides no incentive for a provider to offer a quality product, good customer service, or even prompt or full payments since there is no risk of losing the franchise.
- Precedent: Senate version of HR 5252

10) Expand the Application Form and Applicant Qualifications

- Change: Franchise applicants must be required to submit evidence of their financial, technical, and legal qualifications. Such evidence must be thoroughly reviewed and considered before a franchise is granted. Eliminate the "approval by inaction" provision.
- Reason: Would-be video providers that lack the technical or financial qualifications to provide service shouldn't have access to local rights-of-way. Public rights-of-way are a precious and limited resource and must be protected.
- Precedent: Virginia, South Carolina, California, existing WI cable franchises

11) Improve Audit Rights

- Change: Require video service providers to pay reasonable fees for audits if there is an underpayment of 5% or greater.
- Reason: Provides an incentive to accurately calculate the payments.
- Precedent: California, existing WI cable franchises, Milwaukee-AT&T Agreement.

AMENDMENT 1

Don't Abrogate Existing Franchise Agreements

>At line 12 on page 13, insert the following text after "that" and strike the remaining text through the end of line 14:

continues to provide cable service under a cable franchise until the conditions specified in sub. (3)(b) are met.

>At line 16 on page 15, delete the "." and insert:

if the incumbent cable operator is subject to local competition as defined in par. (b)2.a. and makes the election specified in par. (b)2.a.

>At line 18 on page 15, insert the following text after "service" and strike the remaining text through the end of line 19:

under a cable franchise until subject to local competition. For the purposes of this subdivision, "local competition" means that the franchise area, as defined in the cable franchise, is served by at least two unaffiliated video service providers, each of which offers comparable video programming to at least 15 percent of the households in the franchise area.

>Delete lines 11 to 18 on page 19, and replace with the following text:

(4) FRANCHISING AUTHORITY. For purposes of 47 USC 521 to 573, the state is the exclusive franchising authority for video service providers that are not subject to an existing or expired cable franchise issued by a municipality in this state, except that a municipality shall be the franchising authority for an incumbent cable operator operating within the municipality until such cable operator is subject to local competition as defined in sub. (3)(b)2.a. and makes the election specified in sub. (3)(b)2.a. Notwithstanding s. 66.0425, no municipality may require a video service provider with a franchise issued by the department to obtain a municipal franchise to provide video service or impose on a video service provider any requirement to deploy facilities or equipment or any requirement regarding rates for video service, except as specifically authorized under this section.

>At line 21 on page 15, insert the following text before the “,”:

as specified under par. (b)2.a.

AMENDMENT 2

Expand Definition of “Gross Receipts” for Purposes of Calculating Franchise Fee

>Delete page 11, line 13 to page 12, line 25 and insert:

(j)1. “Gross receipts” means all revenue derived by the video service provider from the operation of its video service network specifically to provide video service, whether such revenue is received by the video service provider, its affiliates, or by any other entity that is an operator of the network directly or indirectly, including, by way of illustration and not limitation,

a. Amounts charged for basic service, optional premium, per-channel, per-program services, and, to the extent applicable, television-like programming services, audio services, channel guide subscriptions, installation, disconnection, re-connection and changes-in-service; equipment rentals, leased channel fees; late fees and administrative charges of any type; and consideration received from programmers.

b. A pro rata portion of all revenue generated by the video service provider’s network pursuant to compensation arrangements for advertising derived from the operation of the provider’s network to provide video service within the municipality. The allocation shall be based on the number of subscribers in the municipality divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement. The provision of video service to customers at no charge, however, including the provision of video service to public institutions without charge, is not derived revenue unless bundled with other services for which a charge is collected.

2. Notwithstanding subd. 1., “gross receipts” does not include any of the following:

a. Bad debt except to the extent that bad debts are recovered.

b. The revenue of any person including, without limitation, a supplier of programming to the video service provider to the extent that such revenue is also included in the gross revenue of the video service provider, its affiliates, or its parent company.

c. Pass-through payments received by video service provider from third-party programmers to purchase services from entities other than the provider itself, which services benefit only the third party programmers and for which the provider neither received nor provides any consideration.

d. Any taxes on services furnished by the video service provider imposed directly on any subscriber or user by the state, the municipality or other governmental unit and which are collected by the provider on behalf of such government unit. The video service provider fee provided in sub. (7) is not such a tax.

e. Refunds, rebates, credits or discounts to subscribers or the municipality to the extent not already offset and to the extent such refund, rebate, credit, or discount is attributable to video service.

f. Any revenues received by the video service provider or its affiliates from the provision of services or capabilities other than video programming services, including telecommunications services, information services, and services, capabilities, and applications that may be sold as part of a package or bundle, or functionally integrated, with video services.

g. Any revenues received by the video service provider or its affiliates for the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, including advertising on any provider program guide, and electronic publishing.

h. Reimbursement by programmers of marketing costs actually incurred by the video service provider for the marketing of programming.

- i. Any revenues received by the video service provider for maintenance charges or sales of capital assets or equipment.

>At lines 11 to 12 on page 11, delete “, and includes any compensation required under s. 66.0425”.

AMENDMENT 3

Clarify Rights-of-Way Authority and Other Police Powers

>Delete lines 12 to 16 on page 26.

>Insert following line 17 on page 30:

(14) AUTHORITY OVER RIGHTS-OF-WAY. Nothing in this shall be construed to change existing law regarding the authority of municipalities to regulate the use of local rights-of-way by video service providers, including the right to charge right-of-way permit fees and to require bonds to secure performance of any reasonable conditions specified by the municipality for work performed in the right-of-way.

AMENDMENT 4

Maintain PEG Financial Support Requirements

>At page 22, delete subparagraph 5(c)1. and renumber the subparagraphs that follow.

>Insert following line 23 on page 23:

(e) *PEG Fee.* 1. Except as provided in subd. 2., a video service provider with a franchise granted by the department shall, on a quarterly calendar basis, pay to each municipality in which the video service provider provides video service a PEG fee equal to the amount specified in subd. 2. A video service provider shall remit the fee to the municipality at the same time as the video service provider fee specified in sub. (7).

2. A municipality shall, by ordinance, require a video service provider with a franchise granted by the department to pay to the municipality a PEG fee equal to the greater of:

i. one percent of the video service provider's annual gross receipts (as such term is defined in sub. (2)(j)); or

ii. a fee equivalent to the value, on a per subscriber basis, assessed monthly, of all monetary grants or in kind services or facilities for PEG channels provided annually by the incumbent cable operator with the most subscribers in the municipality, pursuant to that incumbent's cable franchise in effect on the effective date of this subdivision . . . [revisor inserts date].

3. The municipality may require the incumbent cable operator to provide to the municipality information sufficient to calculate the per subscriber equivalent fee allowed under this subd. 2.ii.. Such information shall be entitled to treatment as confidential and proprietary business information.

AMENDMENT 5

Maintain Local Control over PEG Channel Capacity and Programming

>At line 3 on page 20, delete the words "Except as provided in subd. 2. b. and c., if" and replace with "If".

>Delete lines 13 to 24 on page 20.

>At line 2 on page 21 after "tier" insert the following text and delete the remaining text through the end of line 4:

that includes the retransmission of local television broadcast signals. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the same tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law. Each PEG channel shall be capable of carrying a National Television System Committee (NTSC) television signal when the video service provider is technically able to do so.

>Delete line 14 on page 21 through line 2 on page 22, and insert:

(b) *Additional PEG Channels.* 1. The video service provider shall provide an additional PEG channel when the nonduplicated video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for anything other than PEG programming.

>At lines 4 to 5 on page 22, delete "interim cable operator or".

>At the end of line 2 on page 14, insert:

The term "noncommercial" does not include advertising, underwriting or sponsorship recognition for the purpose of funding PEG-related activities.

AMENDMENT 6

Continue Carriage of PEG Programming from Source to Headend or Video Hub

>At line 14 on page 22, after "shall be" insert the following and delete the remaining text through line 16:

the responsibility of the municipality or its designee receiving the benefit of that capacity, and the video service provider shall bear only the responsibility for the transmission of that content appearing on the PEG channel.

>Delete line 20 on page 22 through line 2 on page 23, and replace with:

a. Ensure that all transmissions, content and programming to be transmitted by the interim cable operator or video service provider are provided or submitted in a manner or form that is compatible with the network utilized by the interim cable operator or video service provider to deliver video service, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is standard in the industry. The video service provider or interim cable provider shall be responsible for any changes in the form of the transmission necessary to make it compatible with the technology or protocol utilized by the provider to deliver services.

>At line 10 on page 23 after "provide", insert the following and delete the remaining text through line 13:

, at its expense, the transmission line necessary to connect the interim cable operator's or video service provider's video service network to all distribution points used by the municipality to transmit programming for the PEG channel.

AMENDMENT 7

Provide Free Connections to Schools and Government Buildings

>Delete line 24 on page 23 through line3 on page 24 and insert:

(6) PUBLIC USE CONNECTIONS AND INSTITUTIONAL NETWORKS. (a) *Public use connections.* Each video service provider holding a franchise issued by the department shall offer free basic service (or its equivalent) to and shall, without charge, install one activated outlet with standard installation video service at each accredited primary and secondary school building, each municipal building, and each public library building in its video franchise area. This obligation will apply to any such video service provider when its video service is available on the section of its video service network that passes the school, municipal, or public library building. So that duplicative installations are not provided, each the video service provider shall negotiate with any other video service provider currently providing free outlets and service to determine who will provide video service to which school, municipal, or public library building. If the providers cannot reach agreement as to who will provide free outlets and video service to which buildings, the local governing body or its designee shall confer with the providers and determine the assignments in a reasonable manner.

(b) *Institutional networks.* Notwithstanding any franchise, ordinance, or resolution in effect on the effective date of this subsection . . . [revisor inserts date], no state agency or municipality may require a video service provider holding a franchise issued by the department to provide any institutional network or equivalent capacity on its video service network.

WAPC



Wisconsin Association of PEG Channels

Serving the needs of public, education, and government cable access television stations since 1998.

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John Quirk

Stevens Point Community

Television

ACM Representative

Mary Shanahan Spanic

West Allis Community

Media Center

Executive Director

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Public Hearing on AB 207 and SB107

March 27, 2007

Remarks of Mary Cardona, Executive Director

This bill devastates PEG access in Wisconsin and its authors claim to "preserve" it.

How can there be such a difference in opinion? What makes PEG work? And why does this bill make it not work?

Public, Education, and Government access television channels on cable systems have

made a go of it and even thrived over the last 30 years because of four sources of support: the cable operator, the municipality, subscribers and the community. AB 207 and its partner, SB 107, eliminate or undermine each one of these supports and then require stations to produce even more programming or be forced off the line-up.

I'm here to say that this is not a recipe for preserving PEG access. At least half of our 43 WAPC member stations will not survive and the rest will be severely damaged. Small town stations will all be gone. And Wisconsin communities will have lost something of great value – being able to see their local communities on television.

Today, cable operators provide the transmission lines that carry produced programs and live coverage of events from our local buildings to the cable headend. This bill requires municipalities to lease those lines themselves – and then lease another set for the competitive operator. Amendments introduced by the League of Wisconsin Municipalities, the Wisconsin Alliance of Cities and WAPC would keep transmission responsibilities with operators where they belong.

Today, municipalities allocate some or all of the 5% franchise fee to PEG stations. Under AB 207, these fees could see a cut of 20%. Access center revenue from franchise fees would therefore also be cut 20% -- and maybe more, if municipalities choose to make up some of the revenue loss by reducing the allocation to PEG. The amendments introduced by cities and WAPC would keep fees intact.

Subscribers have also done their part to support PEG access. Through a local legislative process, many communities (about half of WAPC members) collect PEG fees from cable subscribers on monthly cable bills. These few cents a month make a big difference to PEG stations. But AB 207 abolishes this income source. City and

WAPC amendments to the bill would restore this source of income negotiated in good faith with cable companies, by allowing current funding schemes above 1% to go forward and the remainder to qualify for an up to 1% PEG fee.

Finally, PEG stations would never survive without the support of their communities. Our budgets typically come up for review every year and stations always operate with the needs of their communities in mind. AB207 creates arbitrary content requirements that will force nearly all stations to close, force others to play programs that do not meet community needs, and force many others to regionalize. This last is just as damaging, because a channel without a strong community identity lacks the strong bond needed to garner support at annual municipal budget discussions. City and WAPC amendments eliminate content controls and reinstate community based channel allocations.

I appreciate your time. And I ask, please save PEG access — Preserve dedicated PEG funding, free transmission, and local control over content. Thank you.

WAPC



Wisconsin Association of PEG Channels

Serving the needs of public, education, and government cable access television stations since 1998.

Effect of AB207 on WAPC Member PEG Access Stations

Statewide financial loss & closures

from Decreased Income and Increased Expenses

\$50 million dollar revenue loss for PEG support alone over 10 years

City (amounts estimated for cities in blue; PEG budget bankrupt for cities in red)	2005 or 2006 Annual PEG Access Station Budget	Annual lost Income: No PEG fee 20% decrease in Franchise Fee	Annual new Expenses: Lease of transmission lines & Related Equipment*	Annual PEG Budget remaining (if any)	Annual increase in municipal property tax to maintain current level of PEG access station service
Beloit	\$50,000	\$10,000	\$31,000	18%	\$41,000
Deerfield	\$21,000	\$5,400	\$31,000	0	\$36,400
Dodgeville	\$28,000	\$5,600	\$31,000	0	\$36,600
Eau Claire	\$337,000	\$270,600	\$155,000	0	\$425,600
Fitchburg	\$200,000	\$40,000	\$248,000	0	\$288,000
Hartford	\$87,500	\$23,500	\$93,000	0	\$77,000
Hudson - N. Hudson	\$155,000	\$52,600	\$62,000	26%	\$114,600
Janesville	\$208,000	\$99,200	\$93,000	8%	\$192,200
Jefferson	\$6,500	\$1,300	\$31,000	0	\$32,300
Kenosha (public)	\$92,000	\$12,000	\$31,000	53%	\$43,000
Lake Mills	\$38,000	\$7,600	\$93,000	0	\$100,600
Madison (public)	\$129,000	\$129,000	\$31,000	0	\$160,000
Madison (gov't)	\$489,000	\$305,000	\$62,000	25%	\$367,000
Marshfield	\$172,000	\$34,400	\$93,000	26%	\$127,400
Mauston	\$46,000	\$22,800	\$31,000	0	\$53,800
McFarland	\$82,000	\$21,200	\$31,000	36%	\$52,200
Menomonee Falls	\$114,000	\$22,800	\$31,000	53%	\$53,800
Merrill	\$71,000	\$14,200	\$31,000	36%	\$45,200
Milwaukee (public)	\$500,000	\$500,000	\$124,000	0	\$624,000
Monona	\$40,000	\$8,000	\$31,000	3%	\$39,000
New London	\$60,000	\$12,000	\$31,000	28%	\$43,000
Oregon	\$60,000	\$12,000	\$31,000	28%	\$43,000
Oshkosh	\$337,000	\$145,000	\$62,000	39%	\$207,000
Pleasant Prairie	\$15,000	\$3,000	\$31,000	0	\$34,000
Plymouth	\$70,000	\$14,000	\$31,000	36%	\$45,000
Prescott	\$30,000	\$6,000	\$31,000	0	\$37,000
Rice Lake	\$75,000	\$11,000	\$31,000	44%	\$42,000
Ripon	\$68,000	\$13,600	\$4,000	0	\$17,600
River Falls	\$136,000	\$72,800	\$31,000	24%	\$103,800
Sheboygan	\$148,000	\$36,000	\$279,000	0	\$315,000
Stevens Point	\$174,000	\$63,600	\$186,000	0	\$249,600
Sturgeon Bay	\$98,500	\$26,500	\$31,000	42%	\$57,500
Sun Prairie	\$338,400	\$107,200	\$155,000	23%	\$262,200
Waterloo	\$30,000	\$6,000	\$31,000	0	\$37,000
Wausau	\$107,000	\$83,800	\$186,000	0	\$269,800
West Allis (public)	\$150,000	\$150,000	\$31,000	0	\$181,000
West Allis (gov't)	\$335,000	\$67,000	\$31,000	71%	\$98,000
West Bend	\$250,000	\$50,000	\$31,000	68%	\$81,000
Whitewater	\$98,000	\$19,600	\$31,000	48%	\$50,600
Wisconsin Rapids	\$160,000	\$32,000	\$31,000	61%	\$63,000
Annual Totals	\$5,605,900	\$2,516,300	\$2,670,000		\$5,146,800

* Transmission line needed from each local origination site to headend or video hub. T-1 cost for AT&T estimated at \$1,000 per month. Broadcast quality link to cable operator estimated at \$1,400 per month. Since access stations have never paid for this capacity on a cable system, WAPC bases this figure on the cost of leased fiber from a cable company in one municipality. Number of origination sites per city varies from 1 to 9.



Alonso, G. & J. A. Rodríguez. 1999.

Special Agent in Charge: William J. Raftery, Jr.

Source: <http://www.fishbase.org>

Testimony of Barry Orton
Professor of Telecommunications, UW-Madison

Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail

March 27, 2007

■ State and local consumer protection has worked to the advantage of consumers. Section 100.209 of Wisconsin statutes protects subscriber's rights to prompt repairs, refunds for service outages, notice of rate increases or service deletions, and written notice of disconnection. **AB/SB 207 would eliminate these basic subscriber rights; Wisconsin video service providers could refuse refunds to customers if the service went out, raise rates or cut programming services without any notice, and disconnect customers without notice or reasonable cause. Instead of eliminating Section 100.209, its protections should be explicitly extended to any video or high-speed broadband service.**

■ Local franchise provisions for local noncommercial channels and the organizations that program them are the traditional method to create and fund local educational, cultural, sports, and governmental programming, which has great value in creating local community. Local access channels have been critical sources for local information for many years. **The decreased financial support and increased transmission costs in AB/SB 207 will make local access programming less prolific and more difficult for smaller communities to sustain.**

These traditional public protections are not a barrier to genuine competition. There is no need to allow unfair advantage to the telephone industry in its efforts to enter the video business, nor no good reason to eliminate the historical structures by which the public's interests are protected in this important area.

That AB/SB 207 prohibits the Department of Financial Institutions (DFI) from enforcing any of the bill's requirements is a particularly egregious example of legislative chutzpah on the part of its sponsors. **If a state agency charged with oversight of an industry cannot promulgate rules interpreting the bill's provisions, cannot establish procedures for enforcing its requirements, cannot review a franchise applicant's qualifications, and cannot review or approve a transfer of its franchises, it truly can be said to be powerless.** Under AB/SB 207, the DFI could issue a franchise; file it in a cabinet in perpetuity, and little else. The video consumers of Wisconsin deserve far better.

**AB/SB 207:
Why Create An Unregulated "Video Service" in Wisconsin?**

**Testimony of Barry Orton
Professor of Telecommunications, UW-Madison**

**Assembly Committee on Energy and Utilities
Senate Committee on Commerce, Utilities and Rail**

March 27, 2007

Nothing is broken that needs legislative fixing:

■ Local franchises for wired video services are the traditional method by which the public's property is protected, the public's consumer rights are protected, and the public's interest with regard to local information is advanced. **Local franchises have worked well for many years. AB/SB 207 eliminates them. There is no evidence of the unreasonable denial of a single franchise in Wisconsin.** In fact, Milwaukee has been able to reach an interim agreement with AT&T so that they may build while the City's lawsuit proceeds.

■ Franchise fees are the traditional method by which private users of the public rights-of-way pay fair compensation (rent) for the use of that valuable public property. These fees pay for services that benefit all citizens, who jointly own local rights-of-way. Franchise fees have worked well for many years. **The bill would achieve a 15-25% reduction in the franchise fee gross base by the limitation of gross receipts to revenues paid by subscribers (Section 2 (j) 1) and the exclusion of revenues now included, such as late fees.** Further, the U-verse plan to serve "low-value" customers with a satellite product would take many current customers off the franchise fee base entirely. **AB/SB 207 will cause local property taxes to rise.**

■ Franchise Agreements and Ordinances are the traditional method to assure that all citizens have access to cable services and that neighborhoods are not left unserved. Such build-out requirements have worked well for many years. AT&T has stated that its "Project Lightspeed" will serve 90% of its "high-value" customers (those who spend \$160 - \$200/month on telecom & entertainment services), and less than 5% of its "low-value" customers (those who spend less than \$110/month). **AB/SB 207 creates an underclass of underserved citizens in Wisconsin.**



Metropolitan Milwaukee
Association of Commerce

MMAC Testimony SB107/AB207

March 27, 2007

Steve Baas, Government Affairs Director

The Metropolitan Milwaukee Association of Commerce (MMAC) is pleased to appear in support of the SB107/AB207, and would like to thank the chairmen and committee members for taking up this important piece of legislation.

The MMAC represents over 2000 member companies employing nearly 300,000 individuals in the metropolitan Milwaukee region. Every day these companies are competing for employees, investment, and business opportunities with other regions, other states, and other countries. In this increasingly competitive global marketplace, we need to constantly look for new and innovative ways to make our economy stand out.

This legislation, placing Wisconsin on the cutting edge in information and entertainment technology, is one important tool toward that competitiveness goal. SB107/AB207 not only holds the promise of more jobs and investment in the new technology itself. It also helps create a more dynamic marketplace of options for consumers that gives our region a competitive edge as we work to attract new jobs and workers in all areas of businesses and industry.

At the MMAC, we want metro Milwaukee to be a leader, not a follower, in the global marketplace of the 21st Century. We believe this bill, allowing and encouraging the implementation of this innovative new technology throughout our region, will help us toward that goal.

I thank you again for holding this public hearing and urge your prompt action to advance this critical piece of legislation forward.

###

My name is Bob Chernow. I chair the Regional Telecommunications Commission which has 35 members. I also chair the North Shore Cable Commission which has the 7 North Shore communities of Milwaukee County. We have our own PEG channels.

After many calls, I was able to get an appointment with Representative Phil Montgomery. Jerry Musial, West Allis' Video/Cable Coordinator, joined me. Rep. Montgomery made it clear that the RTC would not have a seat at the table even though our communities have the highest concentration of cable subscribers in Wisconsin and it is our communities that AT&T sees as its market. Rep. Montgomery made it clear that this was going to be the "Phil Bill".

Actually it would be more accurate to say that this is the "AT&T Bill". Our AT&T friends have had full access to the writing of this bill. They are behind a very clever and well funded public relation's campaign. And they are behind the creative numbers that the partisan Wisconsin Policy Research Institute, Inc. just published.

Saying this, let us look at what's wrong with LRB 1914/3.

1- It kills off PEG.

Is this what the Legislature wants? The bill forbids us to collect "capital contributions"; the money that the FCC lets fund PEG. It requires 12 hours of daily local programming, something that is not needed or even done by local TV stations.

Solution: Permit capital contributions up to 1% and allow local PEG to serve their communities with reasonable use.

2- It dramatically reduces franchise fees.

Professor Barry Orton, Wisconsin's cable expert, says that the bill reduces franchise revenues by 20-25% by changing the definition of gross receipts.

Are these the promised "savings" that AT&T boasts? If so, the beneficiary will be Time Warner Cable. Time Warner reduced the funding for Milwaukee's PEG channels and **then promptly raised their own rates.**

Solution: The bill should include revenues from Home Shopping, advertising and other sources in its definition of gross revenues.

3- There is no oversight.

Sign a simple form and declare that you have the money and technical skills and you get a franchise. Bonding? Forget it. Inspections of equipment? You can look, but you can't charge for the work. Restoration? Perhaps!

If a community runs into a crooked company or an incompetent firm, it can't do anything about it because a franchise NEVER ends. You can't even check into whom the company is transferring their "franchise". This is not mere theory. The RTC required special bonding from Aldephia, a firm whose corrupt officers later pushed them into bankruptcy. The officers are now serving jail time.

Audits are allowed, but not paid for. Consumer protection goes to Madison, with little enforcement power. AT&T's installations differ from Time Warner Cable.

Solution: Reasonable fees are needed to check electric wiring and other installation, especially because of an unexplained explosion of at least one of AT&T's cabinets. Restoration of our Rights of Way needs teeth to insure compliance.

Some standards for bonding are needed as well as proof that a person or company has the finances and technical skills to operate a franchise. Transfers need the same oversight.

The Regional Telecommunications was created two decades ago to collectively negotiate with a cable/video provider to have one stop approval of a model ordinance and contract. This system has worked well. We negotiated in fact with AT&T. Yet our communities are urban-suburban for the most part. Much of the State has lower concentrations of people and is served poorly. Few will ever get competition. Yet this bill permits current cable providers to opt in and reduce what they pay locally. This reduction of franchise fees means that property tax will be raises or local services- already strained- reduced. This is, in realty, an unfunded mandate by the Legislature. It is wrong.

Solution: Adopt the Milwaukee-AT&T agreement as the statewide model.

Bob Chernow
Chair
Regional Telecommunications Communications
North Shore Cable Commission

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**Remarks Before the Joint Hearing of the Senate Committee on Commerce, Utilities and Rail
and the Assembly Committee on Energy and Utilities on AB 207 and SB 107
March 27, 2007**

Good morning, Sen. Plale, Rep. Montgomery and members of the Committee. My name is Mario Mendoza and I am the Economic Development and Legislative Liaison for the City of Madison. On behalf of Mayor Dave Cieslewicz, I thank you for the opportunity to speak today. I am accompanied by Brad Clark, Station Manager of Madison City Channel 12, and Roger Allen, Assistant City Attorney for the City of Madison. Each of us would like to share some concerns regarding different aspects of Assembly Bill 207 and Senate Bill 107. I will focus my remarks on four basic points.

First, we believe the bill to be unnecessary to further competition. Just in the last week or so, AT&T has agreed to the terms of a contract in the Milwaukee area that would enable it to enter that market and compete. Furthermore, Verizon, another telecommunications company, has been able to comply with local franchising regulations for some time on the East Coast, and has entered into numerous such agreements.

Second, this bill would result in a significant loss of revenue for the City of Madison. Based on 2006 figures, the City would lose \$398,000 in PEG funding and \$270,000 in Franchise Fees. This would likely result in reducing City services to the tune of \$668,000, because in the current environment where local government budgets are subject to levy limits, cities are quite limited in their ability to offset such losses of non-levy revenues. At the same time, taxpayers --not all of whom are or will become cable TV or video service subscribers--will derive no benefit that they would not receive under the current regulatory framework and, quite likely, will receive \$668,000 less in services.

Third, we are troubled by the apparent loss of local control over municipalities' ability to regulate access--including excavation on-- the public Right of Way. This bill relieves providers of the obligation to pay fees for excavation in the public ROW. It also appears to relieve providers of the duty to restore the ROW once they have excavated it.

Finally, the franchise fee set forth in this bill raises a question: What do the people of California and Texas have that the people of Wisconsin do not have? In California and Texas, the legislature included a provision regarding payment by video service providers of a fee to municipalities to support PEG programming. The bill before the Committee today does not.

Thank you.

1. The first part of the report is a general introduction to the project. It describes the purpose of the study and the objectives that were set at the beginning. The introduction also provides a brief overview of the methodology that was used in the study.

2. The second part of the report is a detailed description of the methodology that was used in the study. This section includes a description of the data collection methods, the data analysis methods, and the results of the study.

3. The third part of the report is a discussion of the results of the study. This section includes a discussion of the findings of the study, a discussion of the limitations of the study, and a discussion of the implications of the study.

4. The fourth part of the report is a conclusion. This section summarizes the findings of the study and provides a final statement on the importance of the study.

The purpose of this study was to investigate the relationship between the use of social media and the level of social support. The objectives of the study were to determine the extent to which social media use is associated with social support, to identify the factors that influence the relationship between social media use and social support, and to explore the potential benefits of social media use for social support.

The methodology used in this study was a cross-sectional design. Data were collected from a sample of 100 participants who were recruited from a local community center. The data were collected using a survey that included questions about social media use, social support, and other factors that might influence the relationship between social media use and social support. The data were analyzed using statistical methods, including regression analysis, to determine the relationship between social media use and social support.

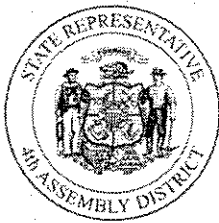
The results of the study showed that there was a positive relationship between social media use and social support. Specifically, the results showed that participants who used social media more frequently reported higher levels of social support than participants who used social media less frequently. This relationship was found to be significant at the 5% level.

The findings of this study suggest that social media use may be a useful tool for increasing social support. However, there are several limitations to this study that should be noted. First, the study was a cross-sectional study, which means that it cannot establish a causal relationship between social media use and social support. Second, the study was conducted with a sample of participants from a local community center, which may limit the generalizability of the findings. Finally, the study did not control for other factors that might influence the relationship between social media use and social support.

Despite these limitations, the findings of this study are important because they suggest that social media use may be a useful tool for increasing social support. This finding has implications for future research and for the development of interventions that aim to increase social support.

In conclusion, the findings of this study suggest that social media use is associated with higher levels of social support. This relationship was found to be significant at the 5% level. The findings of this study have implications for future research and for the development of interventions that aim to increase social support.

The study was conducted by a team of researchers who are interested in the relationship between social media use and social support. The study was funded by a grant from the National Institutes of Health. The results of the study are available in the full report, which can be found at the following link: [\[Link to full report\]](#).



Phil Montgomery

Serving the Communities of Allouez, Ashwaubenon, De Pere and Green Bay

12A Saturday, March 24, 2007

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EDITORIALS

VIDEO FRANCHISING

Adopt the 5% solution

Municipalities should be able to provide public access programming with a 5% cut of video revenue.

Despite the tentative deal reached last week between AT&T and the City of Milwaukee, Wisconsin still needs a statewide video franchising law.

The Milwaukee agreement, which came after the city filed a federal lawsuit in December, calls for AT&T to pay a license fee that amounts to 5% of gross revenue. It also requires the company to build out at least 25% of the households within the three-year term of the agreement. A summary of the deal says that at least 25% of those households are expected to be low-income.

The agreement will let the company launch its Internet video service as a competitor to cable television. Elements of the Milwaukee deal may well become a model for other communities around the state. These are generally good things.

But there's this: The company will also be required to pay an additional 2% of gross revenue to help fund public, educational and government programming. That's more than the 1% that Time Warn-

er pays now.

These taxes — let's call them what they are — are passed along to consumers. The city and other municipalities ought to be able to provide government access programming out of their 5% cut. If they can't, taxpayers should ask their elected officials to explain why they can't.

The proposed legislation by state Rep. Phil Montgomery (R-Ashwaubenon) and state Sen. Jeff Plale (D-South Milwaukee) includes many of the same provisions as the city deal with AT&T but does not include the additional 2% fee. Montgomery questions the need for it.

He's right to keep pushing for a statewide solution. Competitors should not be forced to negotiate with each community in which they want to offer service or face federal lawsuits just because they want to bring much-needed competition to cable television.

Communities have legitimate interests, but those interests should not stand in the way of helping consumers get a better deal for video services.

Should the Legislature proceed with its video franchising bill? Why or why not? E-mail jsedit@journalssentinel.com



Tom Barrett
Mayor, City of Milwaukee

March 26, 2007

The Milwaukee Journal Sentinel Editorial Board
P.O. Box 371
Milwaukee, WI 53201-0371

Dear Milwaukee Journal Sentinel Editorial Board:

We are writing to express our concern with your March 24, 2007 editorial "Adopt the 5% solution" which takes the position that municipalities should be able to provide public access programming with only a 5% cut of video revenue. We are disappointed to see that the Journal Sentinel has rushed to judgment on such an important issue facing local consumers and taxpayers.

Over the past year, the City of Milwaukee has been actively involved in the debate over bringing competition into the cable/video market. During this time, city officials led by City Attorney Grant Langley, have actively pursued a fair solution to allow AT&T to bring its U-Verse product into this market. In addition to a video franchise fee of 5% of gross revenue, AT&T has agreed that it will pay an additional 2% of gross revenue to the City to support public, educational and government access channels.

The local agreement between AT&T and the City of Milwaukee protects taxpayers and consumers. We expect the same protections from statewide video franchising legislation. As drafted, however, Senate Bill 107 and Assembly Bill 207 fail to do so.

Milwaukee's rights-of-way are the most valuable resource owned by city taxpayers. Cable franchise fees are designed to reimburse city governments for providing broad access to publicly owned rights-of-way and are more akin to "rent" than "taxes." Cable/video providers like Time Warner and AT&T are private, for-profit enterprises that are using publicly owned property in their profit-making ventures. Almost no business can say that they are only paying 7% of their gross revenues in rent for this huge amount of property. No property owner would be satisfied with letting a private business use their land for free. This is why we believe the 7% fee is fair and reasonable. And, apparently, AT&T does, too. Or, it wouldn't have agreed to such a figure.

As mentioned in the editorial, the bill wipes out any additional fees to support local public, education and government access (PEG) channels. In Milwaukee, there are four PEG channels currently being broadcasted. City Channel 25 is actually now paid for with the 5% franchise fee revenue deposited into the city's general fund. The two MATA Community Media Channels, [Channels 14 and 96], are primarily funded by the PEG funding provided by Time Warner Cable over and above the 5% franchise fee. If cable providers are able to opt out of their existing



[The body of the document contains several paragraphs of extremely faint, illegible text. The text is too light to be transcribed accurately.]

franchise agreements, public access programming like the MATA channels will eventually lose funding and will be forced to shut down. The loss of these valuable stations would be most unfortunate for our community.

The proposed legislation defines gross receipts differently from our current contract with Time Warner Cable and our new agreement with AT&T. This presents a problem for Milwaukee and other communities. Since the proposed legislation enables them to opt into a statewide franchise, existing local agreements will become irrelevant as providers take advantage of more favorable terms under the state franchise requirements.


Under the proposed definition of "gross receipts", our initial review shows that the City would see an immediate reduction of about \$350,000 (almost 10%) in revenue from its Time Warner payment. This is not accompanied by any reduction in city costs and will result in either an equal increase in the property tax levy or a reduction in services. And, there won't even be any significant competition in this market for years. In fact, 20 months after similar legislation went into effect in the State of Texas there are still only 3,000 subscribers to the new AT&T product.

There are many other problems with the proposed legislation and we have asked the authors to address them. The legislation eliminates payment of local permit fees, assessments for pavement cuts and other city costs for providing these businesses access to the public right-of-way. The costs associated with issuing these permits and access to city services don't go away. It is time consuming for city employees to review and assess the location of utility boxes and other infrastructure being installed to provide cable/video services. Public utilities have to pay them and so should cable/video providers.

The constitutionality of abrogating existing cable franchise agreements that were negotiated in good faith is questionable. Cable connections to schools and government buildings are no longer required. Also, consumer protection and customer service standards are gutted in the legislation.

Why would we want to pass legislation in the State of Wisconsin with provisions that are significantly sub-par to those found in similar legislation passed in numerous other states like Texas and California? The major players in this market have already agreed to provide much more generous terms than those found in the legislation. Our consumers and taxpayers deserve better and we will continue to fight for changes to make Wisconsin's statewide video franchising legislation a model for other states to follow. The Milwaukee agreement with AT&T is a good place to start.

Sincerely,



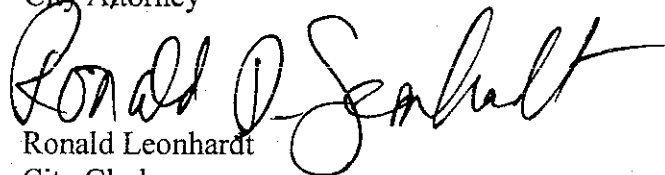
Tom Barrett
Mayor



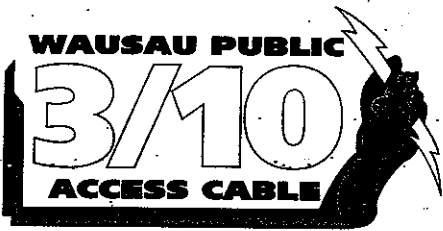
Grant Langley
City Attorney



W. Martin Mofics
City Comptroller



Ronald Leonhardt
City Clerk



Assembly Bill 207 Cable Competition Act

My name is John Jordan, I am the Public Access Cable Coordinator for the City of Wausau. I have been asked to appear at this public hearing to speak against this bill as written.

The City of Wausau welcomes cable competition. We look forward to the day when there are multiple video service providers for our residents to choose from. However, this bill as written does not benefit the City of Wausau or subscribers to cable in the City of Wausau. Wausau Public Access Cable has been in operation since 1993. During that time WPAC has not received any general property tax revenue funding. WPAC funding has come from cable subscribers who view Wausau PEG channels via PEG support fees, franchise fees, and Capital equipment funds. Other sources of funding come from sales of program copies and donations. Other speakers have commented on the various problems with AB 207 / SB 107. Let me tell you how it could affect the residents of the City of Wausau.

If this bill passes as it is currently written, it could make Wausau Public Access Cable incapable of continuing its operation.

It would do this in the following ways.

1. Upstream transmission costs. Currently Wausau Public Access Cable consists of two cable channels, Cable Channel 3 and 10. Cable Channel 3 is for Government and Educational Access. Cable Channel 10 is for Public Access. We currently have 8 points of origination in the City of Wausau. They are: Wausau City Hall (2 one for each channel), University of Wisconsin-Marathon County (2 one for each channel), Marathon County Courthouse (1 for Ch. 3) Wausau School Administration Building (1 for Ch. 3), Wausau East High School (1 for Ch. 3) and Wausau West High School (1 for Ch. 3). The cost for a T1 line is approximately \$550 per month for each line on a one year contract. $\$550 \times 8$ origination points = \$4400 per month $\times 12$ months = \$52,800 per year for one video provider $\times 2$ video providers = \$105,600 per year. Last year Wausau Public Access Cable total budget was \$97,483.
2. Funding, as mentioned earlier, was from two main sources: Public Access Fee and Franchise Fee, for a total of \$83,173. The remainder of the WPAC funding of \$97,483 comes from program sales and donations to Wausau Public Access Cable. This bill takes away my primary funding source the Public Access Fee, in 2006 it was \$54,871. This bill also reduces what can be collected under the Franchise Fee's 5% of Gross Revenue. Current estimates put that reduction at 30%. So with a reduction of 30%, my Franchise Fee share would drop from \$28,302 to \$19,812. This would take my budget from \$97,483 to \$34,122. This income loss with the projected yearly upstream transmission expenses of \$105,600 will make operating the Wausau Public Access Cable channels impossible without raising property taxes. This would create an additional problem of property tax payers to don't subscribe to a video delivery service



having to support a service that, until this bill, was supported only by cable subscribers on their cable bill. (Franchise fee of \$250,000 would drop 30% to \$175,000 (\$97,483 + \$105,600 = \$203,083))

3. The local programming requirements 12 hours per day 80% local originating and non-repeating per channel is another issue. On a weekly basis we show on Cable Channel 10 (The Public Access Channel in Wausau) the following locally produced programs: The Sunday services of the following churches: St. Stephens Lutheran Church, St. Peters Lutheran Church, Immanuel Lutheran Church, Trinity Lutheran Church, St. Mark's Lutheran Church, Immanuel Baptist Church, Grace United Church of Christ, First United Methodist Church, Book of Acts Church, New Life Episcopal Church. Weekly messages from five other independent preachers. Other locally produced programs: It's Not Work, It's Fun (a gardening show) Ride the Planet (a science show), Musical Songfest (a polka music show), Staying Fit with Jim (exercise program). These total about 16 hours of programs locally produced and original each week or not quite two day's worth of programs. By the requirements listed in this bill I would lose this channel. Depending on the time of month and even the time of year the programming on Cable Channel 3 (The Government and Educational Channel in Wausau) varies. We carry the Wausau City Council (live twice a month) Mosinee City Council (taped delayed twice a month, no live return available) Marathon County Board (live twice a month) Wausau School Board (live once a month) Mosinee School Board (taped delayed once a month) UWMC Today (taped once a month), High School Sports covered depending on season for Wausau East, Wausau West, D. C. Everest, Mosinee and Wausau Newman include football games, boys soccer games, girls volleyball games, girls basketball games, boys basketball games, hockey games, curling bonspiels, girl soccer games, City wide track meet. Other school events covered include annual Pops Concerts and Graduations are shown live on the access channel. From the UWMC campus we show live and/or tape delay many lectures and theater productions on average 4 to 5 per month when school is in session. Even with all these programs we would not meet the required 9 to 10 hours of locally produced non repeated programming so this channel could be taken back by the video service provider. On a side note Wausau has three commercial TV stations WSAW-TV 7 (CBS), WAOW-TV 9 (ABC), WFXS-TV (Fox 55). Combined these three stations do not generate the 9 hours of daily, locally produced, original, non-repeating programs.
4. Wausau Public Access Cable creates programming not produced anywhere else in the state. This includes our curling coverage of the Badger State Winter Games and High School Bonspiels. Over the years, between grants, capital funds and WPAC's yearly operating budget, provided because of our local franchise agreement, we produce curling coverage of a quality not found south of the Canadian border or outside the Winter Olympics. Our coverage of curling has helped prompt the Wausau Curling Club to undertake a building project that when completed will able to host and video tape local, statewide, national, international and Olympic curling competitions in Wisconsin. This bill as written could harm that project.

5. Then there is the issue of local control of zoning and municipal control of the right of way. AB 207/SB 107 would eliminate street opening permit fees and may prevent municipalities from requiring video providers to post bonds before excavating in the Cities right-of-way.
6. The City of Wausau Legislative Committee went on record March 21, 2007 as being opposed to LRB-1914/3 now known as AB 207/SB 107 as written and have directed John Jordan to express the Committee's opposition to the Assembly and Senate Energy and Utilities Committees at the public hearing being held on March 27. Further, a resolution in opposition to this proposed legislation, as written, will be introduced to the Common Council for adoption. Motion was carried unanimously 4-0.
7. I also have a letter from the Volunteer Center of Marathon County I would like to read and put into the public record.
8. Thank you for your time
9. Please save PEG access -- Preserve dedicated PEG funding, free transmission, and local control over content.



407 Grant Street • Wausau, WI 54403-4783 • 715/261-6670 • Fax: 715/261-6678

March 26, 2007

To Whom It May Concern:

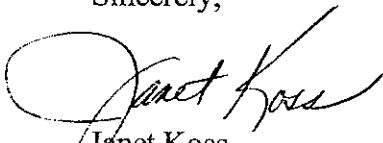
The purpose of this letter is to support the preservation of the Wisconsin Association of PEG Channels (WAPC). The Volunteer Center of Marathon County has had a successful working relationship with Wausau Public Access, a member of WAPC, for over a decade.


It is with deep regret that the Volunteer Center has learned about the "Video Competition Act" (LRB 1914/3) which will prohibit municipalities from asking for PEG channels, funding or facilities from video service providers; require PEG facilities and municipalities to shoulder additional equipment and leasing costs necessary to transmit PEG signals from these facilities to video service provider head-ends; allow video service providers to distribute PEG programming in sub-quality web streaming signal; and allow video service providers to take away PEG channels if they do not meet unrealistic content and production requirements. If this bill passes, it will have serious implications on the community, and the way the Volunteer Center of Marathon County serves the local population.

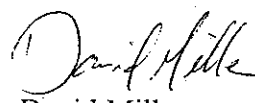
As a nonprofit, the Volunteer Center values the high quality service we receive from Wausau Public Access, when we need to reach the community through a local media presence. The Volunteer Center has utilized cable access to advertise events, discuss the importance of our organization on local broadcasts, and to train and loan equipment to the Volunteer Center's own youth television show, Tomorrow's Voices Today. The youth television show was recently initiated to highlight the importance of positive youth service in the community, and is vital to inspire a culture of service-oriented youth. This community program would not be possible without the dedication to community service and willing collaboration provided by Wausau Public Access.

As citizens of Wisconsin, and community organizers in Marathon County we do not support this bill. Rather we favor preserving and maintaining PEG provisions within any telecom legislation. Do not allow this proposed bill to pass. Thank you.

Sincerely,


Janet Koss
Executive Director


Roberta Bie
Adult Program


David Miller
Youth Program

Building better communities through volunteering!

Zack and Jessie's Address to the Assembly

ZACK

I want to thank the Committee members for allowing me to appear, my name is Zack Henderson. Jessika Gerg and I are here, as KIDS-4 members, to talk about the impact the Video Competition Act will have on KIDS-4. KIDS-4 is a unique cable access station in Wisconsin; in fact it's the only station of its kind in the United States.

KIDS-4 has had a wholly positive experience on my life, by teaching me technical skills that I otherwise may not have learned. In addition to the technical skills I've learned I have also learned many life skills, such as teamwork, decision-making, cooperation, public speaking, and stage presence. I will use these skills for the rest of my life in anything I do, anytime I interact with people, and any career I choose.

I would feel very bad if a program that has meant so much to me just went away. It would be a major mistake to eliminate a program that has provided so much for the community and touched so many lives. Even though this is my last year in KIDS-4, I would be very sad for other area children who may not be able to participate in the program.

JESSIKA

KIDS-4 is a place where I can learn about cameras, editing, TV production, but most importantly KIDS-4 is a place where I've met new friends. I've always enjoyed coming to KIDS-4, meeting new people in Sun Prairie, and working in television. KIDS-4 has made me more social and has given me confidence when working with others. Also, KIDS-4 gives me something to do after school other than sitting at home watching TV.

One day I would like to become a news reporter and maybe go into advertising. Because of KIDS-4 I have learned how to interview people, work with cameras, learned about different forms of advertising, and how to put together television shows. I truly believe these skills will help me in the future no matter what I do in life.

I would be very sad if KIDS-4 were to close, because it is a great experience. I think everyone should join KIDS-4 because you get so many great lessons and experiences from it. KIDS-4 has been around for so long it would be horrible to have it disappear, because lots of Sun Prairie residents watch us and see entertainment produced by their peers. I feel it should not go.

I was lucky enough to be apart of KIDS-4 and I hope that future generations of kids can be apart of this very important program.

